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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,806	03/10/2004	Gilles Dumont	2308-5A	4514
7590 Eric Fincham 316 Knowlton Road Lac Brome, QC J0E 1V0 CANADA			EXAMINER GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/797,806	Applicant(s) DUMONT, GILLES	
	Examiner Jeffrey L. Gellner	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-16 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, the preamble of "A rotary growing" is unclear in meaning. Probably it should be --A rotary growing apparatus--.

In claim 12 line 2, "said single ring" lacks antecedent basis.

In claim 19, line 1, "each space" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 13, 15, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sparkes (WO 93/12644).

As to claim 12, Sparkes discloses a rotary growing apparatus (Figs. 1-2) comprising a single ring (11, 12, and 13 of Fig. 1), a support means for the single ring (10 of Fig. 1), means for

rotatably driving (14 of Fig. 1) the single ring about a rotational axis of the ring, the rotational axis being substantially horizontal (from Fig. 1), a plurality of medium retaining members (16 of Fig. 1) extending transversely (see Fig. 1, at a right angle) of the ring, each of the members defining a base and at least one sidewall (in that bottom of 16 is a base and sides are a sidewall) to define a medium receiving space (see Fig. 2), each of the plurality of medium retaining members having a base secured to the ring (in that portion of base is secured to 13, see Fig. 1); liquid feeding means (26 and 27 of Fig. 2) for feeding a liquid to at least one of the plurality of medium receiving space while rotating; and, at least one light source (17 of Fig. 1) interiorly to the ring.

As to claim 13, Sparkes further discloses the light source located along the rotational axis (see Fig. 1).

As to claim 15, Sparkes further discloses the plurality of medium retaining members has a plurality of apertures (27 of Fig. 2) formed in the base to permit injection of liquid.

As to claim 17, Sparkes discloses a rotary growing apparatus (Figs. 1-2) comprising at least one ring (11, 12, and 13 of Fig. 1), a support means for the single ring (10 of Fig. 1), means for rotatably driving (14 of Fig. 1) the single ring about a rotational axis of the ring, the rotational axis being substantially horizontal (from Fig. 1), a plurality of medium retaining members (16 of Fig. 1) extending transversely (see Fig. 1, at a right angle) of the ring, each of the members defining a base and at least one sidewall (in that bottom of 16 is a base and sides are a sidewall) to define a medium receiving space (see Fig. 2), each of the plurality of medium retaining members having a base secured to the ring (in that portion of base is secured to 13, see Fig. 1);

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liquid injection means (26 and 27 of Fig. 2) for feeding a liquid to at least one of the plurality of medium receiving space while rotating; and, at least one light source (17 of Fig. 1) interiorly to the ring.

As to claim 18, Sparkes further discloses the light source located centrally of the at least one ring (see Fig. 1).

As to claim 19, Sparkes further discloses the plurality of medium retaining members has a plurality of apertures (27 of Fig. 2) formed in the base to permit injection of liquid.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparkes (WO 93/12644).

As to claim 14, the limitations of claim 12 are disclosed as described above. Not disclosed are the medium retaining members secured to the ring by a clip means. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus by using a clipping means so as to have a reversible means of connection.

As to claim 16, the limitations of claim 12 are disclosed as described above. Sparkes further discloses a drive motor (14 of Fig. 1) and drive shaft (15 of Fig. 1). Not disclosed a drive wheel and a drive belt connecting the drive shaft and the drive wheel. It would have been

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obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Sparkes by adding a drive wheel and a drive belt connecting the drive shaft and the drive wheel as a well known means of driving a system.

Allowable Subject Matter

Claim 7 is allowed over the art of record.

Response to Arguments

Applicant's arguments filed 14 November 2006 have been fully considered but they are not persuasive. Applicant's argument are: (1) neither Markovets nor Knappe disclose a single ring (Remarks page 6, 5th para.; page 7 1st para.); (2) neither Markovets nor Knappe disclose a base secured to the rings (Remarks page 6, 6th para.; page 7 1st para.); (3) neither Markovets nor Knappe disclose a light source along the axis of the rotation of the ring (Remarks page 7, 2nd para.); (4) neither Markovets nor Knappe disclose a liquid injection means (Remarks page 7, bottom half of page).

As to arguments (1) through (4), Sparkes discloses these limitations as stated in the rejections given above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey L. Gellner
Primary Examiner
Art Unit 3643